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ABSTRACT

This paper discusses the potential of individual States for encouraging voluntary desegregation at the local level. Desegregation history and State strategies in five States--California, Illinois, Massachusetts, Kentucky, and Washington--are closely examined. In all of the States studied, State laws provide the State agency with considerable power. Generally, these laws make racial imbalance actionable, even in the absence of an intentional violation. The examination reveals successes and failures within every State. Individuals within the State agencies responsible for school desegregation appear to be committed and vigorous, but reduced resources and competition with other State priorities threaten their capacity to pursue traditional strategies. As a result, these State agencies are searching for new strategies, particularly ones that directly combine a concern for racial balance with improving student achievement. While specific ways of accomplishing the twin goals of desegregation and quality education are far from clear, those involved believe that both can be met. (Author/GC)

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STATE DESEGREGATION INITIATIVES IN A PERIOD OF TRANSITION

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Education Commission of the States

STATE DESEGREGATION INITIATIVES IN A PERIOD OF TRANSITION

LEC-83-12

by Hal Winslow, with Richard Andrews, Judith Bray, Charles Glenn and Patricia Lines/*\

Education Commission of the States
1860 Lincoln Street, Suite 300
Denver, Colorado 80295

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ABSTRACT

The paper by Hal Winslow and his colleagues discusses the potential of states for encouraging voluntary desegregation at the local level. Desegregation history and state strategies in five states -- California, Illinois, Massachusetts, Kentucky and Washington -- are closely examined. In all of the states studied, state laws provide the state agency with considerable power. Generally these state laws make racial imbalance actionable, even in the absence of an intentional violation. The examination reveals successes and failures within every state. Individuals within the state agencies responsible for school desegregation appear to be committed and vigorous, but reduced resources and competition with other state priorities threaten their capacity to pursue traditional strategies. As a result these state agencies are searching for new strategies, particularly ones that directly combine a concern for racial balance with improving student achievement. While specific ways of accomplishing the twin goals of desegregation and quality education are far from clear, those involved believe that both can be met.

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by
Hal Winslow, with Richard Andrews, Judith Bray,
Charles Glenn and Patricia Lines/*\
September 1983

INTRODUCTION

This paper describes the efforts of state agencies to develop and implement strategies for encouraging voluntary desegregation. The topic is timely. Consolidation of the Emergency School Assistance Act (ESAA) into Chapter II of the Education Consolidation and Improvement Act (ECIA) has substantially reduced federal support for desegregation, particularly in the big cities and made a more significant state role in desegregation likely. The recent order of Judge Shadur in the Chicago case, United States v. Board of Education,/1\ temporarily suspending federal funds for desegregation units in state education agencies (SEAs) under Title IV of the Civil Rights Act, has prompted a re-examination by SEAs of their functions and their reliance on federal support. Popular resistance to busing as a desegregation remedy and the current federal administration's disinclination to puruse this remedy aggressively have affected the ability of SEAs to exercise whatever authority they gained over the years to address issues of segregation in schools. Population shifts and the increasing number of Hispanic and Asian students in many school districts with desegregation plans have meant that revising those plans to include tri-ethnic components and multilingual/multicullltural programming must be considered.

These developments and the current federal tendency to rely more on states for education policy-making and implementation make it increasingly important to identify and support innovative state strategies that will encourage local efforts to achieve high-quality, integrated educational systems.

Identifying innovative strategies proved difficult, however, since state policy on school desegregation is in transition. We found that many states are taking stock -- evaluating the tools that have been used and trying to identify new ones. Whatever model strategies we might present would be the ones often-cited in prior reports/2\ or ones only now being developed and evaluated. For these reasons, we concluded that most useful at this point would be a study of how states have moved into the current period of transition and what new approaches they are considering.

The next section provides a brief overview of the context within which state desegregation policy has operated. That section is followed by profiles of five states. These profiles describe the ebb and flow of efforts to design and implement desegregation

policy; each ends with an assessment, drawn from the experience of state officials, of issues that will affect the future of desegregation policy. We conclude with some overall observations and suggestions regarding elements of model desegregation strategies that should be considered during this period of transition.

STATE DESEGREGATION INITIATIVES

The Context

No discussion of actual or potential state roles in school desegregation can ignore the fact that state agencies have generally been perceived to be part of the problem. In desegregation litigation, states have been ignored altogether, made nominal defendants, or joined for the sole purpose of getting state funds to implement court-ordered desegregation plans. Administrative enforcement of civil rights under Title VI of the federal Civil Rights Act has generally proceeded without the involvement of state agencies./3\ States are given no formal role in the mechanisms for obtaining compliance with Title VI or for designing, implementing and enforcing desegregation plans. States that have worked out informal roles with regional offices of the Office for Civil Rights (OCR) have done so on their own initiative./4\ The half dozen or so states that have played the most active roles in school desegregation/5\ are frequently cited as the exceptions that prove the general rule.

Despite the limited involvement of states in litigation and in the enforcement of federal law, over 30 states have laws and policies on desegregation./6\ A handful of states have initiated desegregation enforcement actions on the basis of state law, and a few have provided funds to implement desegregation plans./7\

Although state involvement in desegregation has been uneven at best, the last 20 years have witnessed dramatic improvement in the professionalism of state departments of education. SEAs have strengthened capacities in monitoring, technical assistance, planning, research and evaluation./8\ This increase in capacity has been spurred by the need for SEAs to respond to school finance reform efforts, accountability initiatives and programs established by state legislatures. Of equal, if not greater, importance has been federal funding for SEAs, which has made states responsible for managing a diverse set of programs.

In the area of equal educational opportunity, the clearest example of federal influence has been the state desegregation assistance units funded under Title IV of the Civil Rights Act. Longstanding involvement in Title IV has led to the development of a cadre of SEA staff who are experienced in providing specialized technical

assistance to local education agencies (LEAs). In the areas of sex equity and the rights of handicapped students, federal requirements that SEAs appoint state coordinators for Title IX of the Education Amendments of 1972 and Sec. 504 of the Rehabilitation Act of 1973 have developed expertise in technical assistance and compliance monitoring. More generally, SEA involvement in federal programs for special-needs populations, such as Title I of ESEA (now Chapter I of ECIA) and P.L. 94-142, has contributed to development of SEA capacity in planning, evaluation, monitoring and technical assistance.

Thus, the overall capacity of SEAs to obtain compliance with rules, to collect and analyze information about LEA activities and to provide technical assistance has improved considerably over the past 20 years. Capacity continues to differ by state, but the overall trend has been one of improvement. The kinds of skills likely to be needed to further local desegregation are in place in most states.

State offices that seek a larger role in school desegregation face a number of practical problems and barriers. Desegregation has never been politically-popular. Enforcement has been spearheaded by the judicial system and federal administrative enforcement entities, particularly the Office for Civil Rights (OCR)/9\, which are somewhat insulated from state and local politics. State officials and politicians who have taken pro-desegregation positions have felt the backlash, particularly on the issue of busing. The most difficult, and seemingly most intractable, desegregation problems are to be found in the big cities -- areas that traditionally have been the least amenable to SEA involvement or influence.

Policy-making is always difficult where there is a significant level of uncertainty. This is particularly true in desegregation, where no one can predict how long the process will continue, what steps must be taken, and what the long-range costs will be. This uncertainty makes administrators wary of committing themselves, particularly since they cannot count on long-term political and financial support. Recent shifts in federal policy on desegregation enforcement strategies, including a lower profile for the Office for Civil Rights, reveal that not even the more politically insulated federal government can be counted on to maintain the threat of enforcement that has helped state officials persuade LEAs and legislators to adopt voluntary desegregation measures.

Finally, desegregation is but one of a multitude of priorities to which SEAs must respond. State legislatures continue to enact new laws requiring SEA implementation or oversight. School finance reform, federal programs, fiscal stress and school improvement are among the items on the long agendas of most SEAs.

Given substantial political risks and structural constraints on their exercise of authority, many state agencies have played a limited role in desegregation.

Profiles of Desegregation Policy In Five States

Desegregation initiatives share a dynamic quality. Changing intergovernmental roles and relationships, experience over the years, shifts in enrollment patterns and competition for the time and attention of state policy-makers and administrators all influence the manner in which state agencies define their roles in desegregation. With each review of state activities, we find that initiatives have been added and programs discontinued.

This section presents profiles of five states that have been identified in previous studies as playing an active role of some sort in school desegregation. The states vary in the types of desegregation problems they face and in their solutions. Each profile traces the development of state desegregation policy and describes constraints on particular strategies. Each concludes with a discussion of concerns raised in interviews with SEA staff or based on the personal involvement of case study authors in the process, and an assessment of the prospects for school desegregation policy.

California/10\

Introduction. Desegregation plans in California developed in response to federal and state court orders, efforts by the federal Office for Civil Rights to enforce Title VI, efforts to achieve compliance with state laws and regulations, and local voluntary efforts. Virtually every major city and a large number of medium-sized school districts have been involved in desegregation efforts. One estimate places the number of districts with voluntary desegregation plans (i.e., districts not under court orders) at over 100/11\.

Minority students account for more than 43% of all students in California. In 1979, Black and Hispanic students accounted for 33.4% of the state's 4.1 million public school pupils, a figure that grew to 36% by 1982. The number of Asian students grew rapidly in the 1970s, particularly with the arrival of new students from southeast Asia. Hispanics are the fastest growing segment of the minority population, rising from 23% to 25% of the total between 1979 and 1980 alone.

California has traditionally been progressive in all areas of social services, including education. Education accounts for more than 60% of the state's budget, and half of that is spent on elementary and secondary education. Political sophistication is high and there are many active special-interest groups and

powerful coalitions. The coalition of big cities, for example, has influenced legislative allocations to general education and to compensatory and bilingual education programs.

Economically, the state has been relatively prosperous, and government tax revenues have benefited. However, the passage of the tax-cutting proposition 13 in 1978 greatly limited the ability of school districts to generate revenue from property taxes. The state used reserves from previous budget surpluses to ease the transition into a post-Proposition 13 era. However, as a result of Proposition 13 and related tax-cutting measures, California in fiscal year 1982-83 experienced its first reduction in state spending since World War II. The 1983-84 budget is similarly austere.

Wilson Riles, California's first Black state Superintendent of Public Instruction, exerted tremendous influence over education in California during his tenure from 1970 to 1983. With organization and his personal powers of persuasion, Riles established a program of early childhood education, a Master Plan for special education that exceeded the requirements of P.L. 94-142 and an innovative school improvement program (SIP). Riles was elected to a third term in 1978 despite his politically unpopular opposition to Proposition 13. In the 1980's, however, discontent with the condition of California schools was growing. Falling SAT scores and disenchantment with so-called "liberal reforms," particularly in the high schools, led to public sentiment for a return to more traditional ways of schooling. William Honig ran on a back-to-basics platform and defeated Wilson Riles in the 1982 election.

California is virtually always included on lists of states that have been active in school desegregation. The state department of education (SDE), California's State Board of Education and the legislature have been powerful actors. The state's role in desegregation has, however, been anything but smooth. The following sections describe the development of that role to explain the current situation and prospects for the future.

Evolution of the State Role. The California SDE's role in school desegregation has evolved with, and been shaped by, the progress of major desegregation cases in the state and by judicial and legislative actions. The political volatility of desegregation -- particularly of student transportation and assignment remedies -- has obliged the SDE to rely more heavily on persuasion and assistance than on coercion. The current SDE role in school desegregation is best understood in the context of changes in this role since the State Board of Education first promulgated a policy favoring desegregation in 1962. We will discuss the state role in terms of two functions that are closely intertwined in practice, regulation and technical assistance.

Regulation. By the time the federal Civil Rights Act was passed in 1964, the California legislature had created and funded the Office of Intergroup Relations (OIG, a body originally charged with affirmative action in employment), and the State Board of Education (SBE) had declared that school officials "shall exert all efforts to avoid and eliminate segregation on account of race or color."/12\

The SBE rules, based on the Board's general authority to adopt regulations "for the government of" elementary and secondary schools,/13\ directed school officials to examine the ethnic composition of school attendance areas and evaluate plans for altering attendance areas. These rules provided a rationale and leverage for progressive local administrators, advocacy groups and the SDE, who wished to confront the problem of segregated schools.

The California Supreme Court's decision in Jackson v. Pasadena (1963) reinforced these administrative actions./14\ In Jackson, the Court declared that under the California Constitution school boards must "take steps, insofar as reasonably feasible, to alleviate racial imbalance in schools regardless of its cause."/15\ The combined force of the SBE regulations and the court's decision set in motion the development of desegregation plans in many districts throughout the state.

The 1970s began with a public backlash against student busing that shifted the spotlight to the legislature and the courts. In response to a a voluntary desegregation plan negotiated in San Francisco that would have involved some busing, the California legislature prohibited school officials from requiring any student to be transported for any purpose without written parental consent. The law, which became Sec. 1009.5 of the Education Code, was subsequently declared unconstitutional, as applied to inhibit desegregation efforts, in San Francisco v. Johnson./16\

Following this incident, the legislature passed a pro-desegregation bill known as the "Bagley Act"./17\ The act took the provisions of the 1963 SBE regulations a step further by requiring school officials to "eliminate racial and ethnic imbalance in pupil enrollment" and by specifying factors to be considered in developing plans to achieve racial balance./18\ Under this law, the SDE promulgated regulations that defined a racially imbalanced school as one in which the percentage of pupils of one or more racial or ethnic groups differed by more than 15% from the district wide average./19\

The Bagley Act proved to be short-lived, however. In 1972, California voters passed Proposition 21, which repealed the Bagley Act and added Sec. 1009.6 to the Education Code. Sec. 1009.6 purported to prohibit school officials from assigning students to a particular school on the basis of race, creed or color. The California Supreme Court again intervened, in Santa Barbara v. Superior Court,/20\ and declared section 1009.6 unconstitutional;

however, the proposition's repeal of the Bagley Act provisions was upheld.

The repeal temporarily put state desegregation efforts into disarray. Superintendent Wilson Riles, in testimony before the U.S. Commission on Civil Rights shortly after the Santa Barbara decision, said: "I don't think the department of education or the State Board of Education is [any longer] in a position to make mandates on local districts in this field."/21\ He added, however, that the state agency planned to continue its assistance role.

New SDE authority subsequently came about as a result of the California Supreme Court's decision in Crawford v. Los Angeles./22\ In Crawford, the court restated and strengthened its original holding in Jackson v. Pasadena that the state constitution requires districts to take affirmative action to remedy segregation regardless of cause. Unlike the U.S. Supreme court, which developed a standard that requires proof of intentional, or de jure, segregation to justify imposition of a remedy, the California Supreme Court made segregation remediable whether de facto or de jure.

Its position strengthened by the Crawford decision, the State Board of Education promulgated new regulations in 1977./23\ The new rules cited the Crawford definition of a segregated school and set criteria for applying the definition. If a school district, using its own criteria, determined that segregated schools exist, the rules required development of a desegregation plan and provided procedures for designing the plan and securing public involvement. Districts were directed to certify their compliance or noncompliance with the rules by 1979 and every four years thereafter. The SDE undertook the responsibility of conducting biennial racial and ethnic surveys of school districts. Data from those surveys were intended to help school districts determine their compliance status while providing the state with information on which to base assistance.

The SDE role was again affected, however, by public and political controversy over busing. As the Los Angeles school district was preparing to implement its desegregation plan in 1979, California's voters passed Proposition 1, which limited the power of school officials and the courts. It prohibited the use of school assignment or transportation to remedy violations under the state constitution, except in cases where a violation of the federal Constitution could be proved, or in circumstances where a federal court would be empowered to order the remedy. The effect was to preclude student re-assignment and transportation where the existence of de facto rather than de jure segregation had been established.

Subsequent challenges to Proposition 1 before the state and federal courts were unsuccessful. The U.S. Supreme Court upheld

the proposition in its 1982 Crawford v. Los Angeles decision./24\ The California Supreme Court took a similar position the same year in McKinney v. Oxnard./25\ Nonetheless, the California court said that Proposition 1 did not relieve school districts of their obligations to remedy segregation under the state constitution, nor did it divest state courts of the power to order remedies other than student assignment or transportation. The court also noted that school boards retained the power to change school attendance zones voluntarily.

A potentially positive development for school desegregation efforts in the aftermath of Proposition 1 was the possibility of state funding for voluntary desegregation. Before Proposition 13 passed in 1978, school districts had been allowed to exceed state revenue limits (set to secure finance equity) to fund implementation of final court orders. After the passage of Proposition 13, state "bail-out" legislation directed the state to fund these adjustments to revenue limits by reimbursing claims submitted by school districts under court order or subject to federal mandates. That law funded court-ordered desegregation efforts in four districts -- Los Angeles, San Bernadino, San Diego and Stockton -- as well as maternity benefits required under P.L. 95-555 in 333 districts. The law provided a total of $150.9 million during 1980-81 (all but about $3 million for desegregation costs). Because busing in Los Angeles stopped after passage of Proposition 1, the amount fell to $128.7 million during 1981-82 and 1982-83./26\

State Senator Alan Robbins, sponsor of Proposition 1 in the legislature, feared that a reduction in state aid for desegregation in these four districts could be construed as an act of de jure segregation itself and thus serve as the basis for a resumption of busing under federal court orders./27\ Accordingly, he sponsored Senate Bill 550, which became law in 1982. S.B. 550 was designed to ensure continued state funding at the 1981-82 fiscal-year level for the four districts, excluding the costs of voluntary student transportation, should their court orders be removed. As a result of legislative wrangling, the bill was amended to provide funding for any district implementing a voluntary integration plan. San Francisco, Fresno and Long Beach were among those eager to obtain these funds. Their reimbursable costs were estimated at $20 million by California's legislative analyst./28\ The analyst also estimated that approximately 100 districts in the state with voluntary desegregation plans would be eligible to apply for funds under S.B. 550. The legislature appropriated $8.75 million for S.B. 550 in the 1983-84 budget--less than half the estimated $20 million needed for San Francisco, Fresno and Long Beach alone. Because of the state's precarious budgetary situation, the Governor vetoed this appropriation. S.B. 550 remains unfunded.

Despite the impasse on funding, S.B. 550 raises prospects for strengthening the role of the 1977 State Board regulations.

Districts are scheduled to re-certify their compliance or noncompliance with these regulations by the end of 1983. Staff in the California SDE noted that if funds were available for implementing "voluntary" desegregation plans, districts might be more willing to identify segregated schools and develop plans.

Technical Assistance. The SDE's Office of Intergroup Relations (OIG) has provided desegregation assistance to school districts since it was assigned that function in 1963. The Office expanded after 1964 with the assistance of federal funds under Title IV of the the Civil Rights Act. Throughout most of its history, the OIG has been what one staff member called "an advocacy-type organization," providing encouragement for school desegregation as well as assistance. One OIG official noted that the office has had the most success working with medium-sized districts; larger districts have been inclined to use their own expertise on desegregation, although OIG has been called into large districts where racial tensions have erupted into violence during the implementation of plans.

State funding is provided for OIG's general operating costs and for functions that include work on affirmative action in employment and multicultural education, conduct of the biennial racial/ethnic survey of students and staff in districts and legislatively mandated reviews of district proposals to change borders or to unify. The OIG assesses transfers of territory and unification proposals to assure that they do not adversely effect school racial compositions. Staff helping districts design and implement desegregation plans and deal with conflict have used federal funds under Title IV and the Emergency School Assistance Act (ESAA).

Like most of its counterparts in other states, OIG has recently seen its funding seriously threatened. When Congress consolidated the ESAA program into Chapter II of the Education Consolidation and Improvement Act (ECIA), the OIG had to compete with other state offices for a share of the new Chapter II monies. The suspension of Title IV funds pursuant to Judge Shadur's order in the Chicago desegregation case/30\ temporarily jeopardized the jobs of OIG's Title IV staff, but the crisis passed in a few months.

In response to reduced federal funding, OIG has sought to increase its state support by emphasizing its expertise in dealing with conflict and helping districts assimilate "new students" into schools. This emphasis has gained some favor, particularly among school districts that face problems caused by a rapid increase in new students from southeast Asia. OIG recently received a portion of the state's Chapter II monies for "Improving School Climate," one of the priorities of State Superintendent William Honig. OIG staffers who have long been involved in desegregation efforts are concerned, however, that former priorities for desegregation will be hurt. Additionally, the SDE is undergoing a reorganization

under Superintendent Honig that will place OIG within a new School Climate unit. Some staff fear that loss of a direct link to the Superintendent could lessen the office's influence and autonomy. Others, however, feel that the new emphasis on conflict and violence will help OIG maintain staff and funding. They believe that many of the traditional assistance functions related to desegregation will continue although terms and emphases may change.

The SDE also houses a federally funded National Origin Desegregation Assistance Center (NODAC) that addresses curriculum, bilingualism and biculturalism. NODAC has produced handbooks for school districts on how to have effective bilingual programs and deal with sudden increases in Asian students who do not speak English. The center is currently identifying the social and cultural factors involved in raising the achievement of these minority students and it is providing technical assistance services directly to school district officials.

Conclusion. One of the major desegregation problems California officials perceive is the problem of priorities. State leaders, including Superintendent Honig, the State Board of Education and the legislature, continue to support desegregation as a matter of policy and principle. Nonetheless as one OIG staffer commented: "Desegregation is just not popular right now. It's not so much that people are against it, it's just that they are preoccupied with other things."/31\

School improvement has long been one of the major initiatives of the California SDE. The School Improvement Program (SIP) developed under Wilson Riles and the considerable state support for compensatory education and programs for students with limited English proficiency are usually mentioned as the most important educational programming initiatives for minority students. Superintendent Honig is presently designing his own school quality initiative. Several state officials involved in desegregation efforts expressed the belief that efforts to achieve equal educational opportunity must be fused with those for school improvement.

Aside from the constraints on the use of student transportation as a remedy, California constitutional law, as interpreted by the state court, remains more progressive than federal law. It places the obligation on school districts to remedy segregation "regardless of the cause." Despite the lack of state criteria for determining whether a school system is racially imbalanced, State Board regulations continue to favor school desegregation. If funds are provided for voluntary desegregation efforts under S.B. 550 as the fiscal crisis in California subsides, the incentives for districts to develop plans in accordance with state board regulations will increase signficantly. Although there is currently little support for the SDE's establishment of a major regulatory and enforcement effort, state officials seem willing to

continue and even expand state assistance, given adequate funding.

The fiscal crises of 1982-83 and the demands for school improvement have combined to stimulate a reassessment of the state's role in school desegregation. Questions of the quality and appropriateness of education for minority children persist and are likely to be raised more frequently as California's minority -- particularly Hispanic -- student population grows.

One SDE official noted that everyone must be concerned with educational quality. Plans to improve quality cannot, however, be "racially and ethnically sterile. We cannot assume that all kids are the same or that they need the same things. We know from experience that that's not true."/32\ The outcome of the current reassessment of the state role in school desegregation in California, whatever its precise form, is likely to involve a more direct relationship between quality and equality.

Illinois/33\

Introduction. Illinois sometimes sees itself as a progressive state. In fact, as early as 1874, Illinois prohibited the separation of school children because of their race and color./34\ In June 1963, Illinois adopted the Armstrong Act,/35\ becoming a pioneer among states passing laws to combat segregation in the schools. The law preceded the Racial Imbalance Act in progressive Massachusetts by two years, and it is broader in scope than the Massachusetts law. But Springfield, Illinois, was in 1908 the site of appalling race riots that ultimately inspired the formation of the National Association for the Advancement of Colored People. Chicago, the state's largest city and the nation's second-largest, began attracting southern Blacks before most other northern cities did, but machine politics controlled the city and Blacks, despite their growing numbers, were not part of the machine. Moreover, the strongest desegregation effort in Chicago has been a federal matter. Illinois, in short, seems to exhibit a schizophrenic attitude toward equity in education, reflecting, no doubt, the attitudes of its diverse population.

Evolution of the State Role. The Armstrong Act requires elimination of the "separation of children in public schools because of color, race or nationality." In 1968, the Illinois Supreme Court ruled that the clear intention of the legislature had been to eliminate de facto school segregation, and that this was constitutionally permissible./36\

To comply with the law, many school districts began adopting desegregation plans in the mid-1970s. In 1971 the State Superintendent of Public Instruction issued specific rules for the implementation of the Act. The state board required districts to achieve a minority population in each school that was no more nor less than 15 percent of the average minority population district wide. The state regulations also required annual reports on

progress. Noncomplying districts were put on probation, and faced possible loss of funds./37\

In February 1976, under the aggressive leadership of the chief state school officer, Joseph Cronin (formerly Secretary of Education in Massachusetts), the State Board of Education reaffirmed its regulations and agreed to impose sanctions on recalcitrant districts. The board monitored enrollment statistics and required districts that deviated from board guidelines to adopt remedial plans. However, according to Pat Wolford, director of the SEA's equal educational opportunity unit, enforcement by the SEA was uneven; "hard" enforcement actions were taken against some districts, while systems like Chicago and Peoria were virtually untouched./38\ Selective enforcement, according to Wolford, also affected the types of plans that the board of education approved. Initially, the state board only approved plans that conformed with SEA regulations but, after the resignation of Dr. Cronin in 1980, SEA staff claim that the state relaxed standards and accepted "almost anything."/39\ Further, the SEA's regulations addressed only de facto segregation as evidenced by statistical measures of racial imbalance. Inquireis into district practices that could lead to findings of de jure segregation were not made.

Despite these problems, the state board continued to enforce the Armstrong Act until October 1982. On that date, in Aurora East Public School District v. Cronin,/40\ the Illinois Supreme Court voided the board's regulations, citing the state board's lack of statutory authority to make any regulations or exercise any jurisdiction under the Act. The Armstrong Act, the high court ruled, obligated local districts only, and local districts only were responsible for its enforcement.

Federal constitutional law, and constitutional law in most states, requires a state agency to have authority either under the constitution or from statutes before it may act. The Illinois constitution gives the state board authority to "establish goals, determine policies, provide for planning and evaluating education programs and recommend financing" except where "limited by law."/41\ The Armstrong act includes an amendment that states: "Nothing herein shall be construed to permit or empower the State Board of Education to order, mandate or require busing or other transportation of pupils for the purpose of achieving racial balance . . . ."/42\ The court in Aurora found that the policymaking powers of the board, which might otherwise have been construed liberally to allow the regulations, were "limited by law" under this amendment.

The court also cited the absence in the Act of standards or guidelines for enforcement, and the presence of other statutory authority/43\ specifying the state role in desegregation. It considered the state board's broad statutory authority "[t]o determine . . . efficient and adequate standards for physical

plant, . . ." and a host of other specific aspects of school operations,/44\ but it concluded that this authority extended only to specifically designated subjects.

The state board had little legal ground for an appeal. A question of statutory authority under a state constitution and state law is a matter for state courts to resolve, and the state high court had spoken. The board decided to seek school desegregation through its administrative powers, which are admittedly more limited, and to ask for new legislative authority.

Conclusion/45\. In response to the loss of its authority under the Armstrong Act, the state board set up a study group on "EEO in the 80's," and asked the group to recommend future board actions. The study group hired consultants, including Dr. Charles Glenn, equal education opportunity office from Massachusetts. In July 1983, Professor Dan Lewis of Northwestern University presented the group's report, with comments and reactions from Glenn, at the annual study retreat of the board.

The heart of the report was a recommendation that the board annually determine district compliance with the Armstrong Act, on the basis of statistical analysis of a variety of items. The recommendation, which borrows from a Massachusetts special education enforcement strategy, would provide that:

> If a district displays substantially disproportionate enrollment patterns that district has the option of developing an Action Plan to remedy the difficulties or they can proceed to a hearing to show that the situation does not violate state or federal law.

The board, seeking to avoid legal issues raised in Aurora East Public School District v. Cronin, chose to rely on authority contained in federal law. There is a basis for arguing that the state education agency is responsible for local compliance with Title VI of the 1964 Civil Rights Act, as virtually all federal funds are funnelled through the state agency./46\

The strength of the state's proposed approach is that it is systematic and seems both fair and exhaustive. The state education agency is experienced in the collecting and analyzing enrollment data. However, a potentially critical weakness is that the approach relies almost exclusively on a formal process that features opportunities for increased politicalization of what is already a volatile issue.

In effect, a district is presumed guilty on the basis of a de facto finding of disproportionate minority enrollment and is encouraged to establish its innoence immediately. All opportunity for negotiation and finding common interests, is lost by putting the school system in pillory where it must defend itself. Willingness to develop a plan amounts to an admission of guilt.

In his remarks to the "EEO in the 80's" group in March, Glenn stressed the continuing importance of desegregation, and warned the group not to approach the issue as state education officials are used to approaching other enforcement responsibilities:

> Race desegregation cannot be "worked" by formula or general requirements, as can such issues as sex equity in home economics and industrial arts . . . desegregation efforts, to produce effective results, stability, and positive educational impact, should NOT seek quick resolutions. The tension of negotiating, testing, and revising complex desegregation measures is a healthy and creative tension . . . . This requires in-depth involvement and persistence, and a refusal to allow the issues to be boiled down to a simple formula which does not do justice to the problem -- or the opportunity.

The proposals that the "EEO in the 80's" group made to the board in July seemed to ignore this advice. By assimilating race desegregation into other regulatory functions of state education agencies, the proposals would, create problems in two opposite directions.

- By virtually forcing school systems to refute a public accusation of discrimination, the proposed strategy would make a comprehensive and satisfactory remedy less likely and set up a win/lose situation. The experience in Boston suggests that school officials must be convinced that a good desegregation plan is a winning proposition for them and an opportunity for positive change. In Massachusetts, no superintendent has lost his job for taking leadership on the issue of desegregation. But in Boston, six superintendents have lost their jobs since desegregation began. In the interests of equity and a good, stable education for minority students, a rigid enforcement strategy seems unproductive.

- The strategy would be costly to the state education agency, and the temptation would be strong to avoid citing school systems in the annual report. Yet it would be difficult to persuade systems that have not been cited to begin desegregation voluntarily. In a sense, issuing an annual report on the "State of Equal Opportunity in Illinois" would force the board to lay out its cards at the start and then begin a retreat as districts argue or prove, in the full glare of publicity, that they are not violating state or federal laws. The costs in political support and credibility would be immense.

At the conclusion of the discussion in July, Superintendent Donald Gill promised to report back to the board with specific recommendations, which he has not yet done. Of course, if the Board adopts the Massachusetts approach but does not support it

appropriately, little will be accomplished. It will be up to minority parents to hold the board accountable for failing to protect the Constitutional rights of minority children; Ohio and Missouri are neighboring examples of the tremendous cost to the state of such failure. A further argument against the "EEO in the 80's" approach is that it might convince a court that the state education agency was meeting its obligations, even when results were not actually signficant.

Government officials feel more comfortable if they have procedures and guidelines to guarantee fairness. But race segregation is an issue that does not respond well to uniform procedures. Each community facing race desegregation is going through a crisis of leadership, of intergroup relations, of self image, and of creativity. The state education agency can coach or facilitate growth during such a crisis, if it can be flexible.

The Aurora decision does not limit the state board's obligation to intervene in de jure segregation situations. According to the state supreme court, the SEA's role in enforcement is one of investigating complaints and handing its findings over to the state attorney general for prosecution. Although the Aurora decision does not prevent the SEA from seeking rulemaking authority from the legislature, the present state superintendent of education has indicated that no such authority will be sought and that the SEA will find "other methods" with which to address the issue of racially isolated schooling./47\ To date, the SEA has not adopted policies or procedures to help establish itself as a facilitator in the resolution of potential de jure segregation disputes.

Kentucky/48\

Introduction. Kentucky is a North/South border state whose history of conservatism tempered by strong individual leadership is reflected in its civil rights actions and policies. State law is virtually silent on school desegregation, and a provision in the state constitution mandating separation of White students from Black students in public schools has not been formally repealed, despite the obvious conflict with the U.S. Constitution. Yet, the state legislature has given sweeping enforcement authority to the Kentucky Commission on Human Rights, and the state in 1975 adopted a far-sighted plan for desegregating not just schools but an entire metropolitan area. Moreover, Kentucky has a strong public accommodations law that, by interpretation, appears to forbid racial imbalance in schools.

Evolution of the State Role. Segregation in Kentucky before 1954 was required by the state constitution and by statutes. Following the Brown decision, the state acted to begin the process of desegregating Louisville schools. The plan was one of free choice and, though unsophisticated compared to desegregation strategies

of today, it was ahead of its time in 1956. Its relatively peaceful implementation and ensuing success can be credited to active gubernatorial support, beginning with Governor Wetherby's positive response to Brown and Governor Chandler's decision two years later to defend school integration with state police and the National Guard. Segregation did not by any means disappear, but school integration advanced substantially between 1956 and 1966.

The Kentucky Commission on Human Rights was established in 1960, with an initial mandate to investigate discrimination and report its findings to the legislature. Six years later, the legislature armed the commission with authority to enforce civil rights in employment, housing and public accomodations./49\ The legislation's action created a powerful state agency that combines research on new ways to reduce discrimination and analyses of current data with the legal authority to correct civil rights violations.

The Jefferson County Plan. In 1972 the commission warned that resegregation in Louisville had already occurred; 80% of all elementary school students attended schools where at least 90% of the students belonged to one race. Louisville is the state's largest city, with suburbs extending into Indiana and surrounded on the Kentucky side of the state line by Jefferson County, virtually all-White in the early 1970's. The NAACP used the commission's findings to file a suit seeking to merge the Louisville and the litigation Jefferson County school districts, a possibility that the school boards had already been considering for financial reasons./50\

As it became clear that the federal district court would order a merger of the two districts, the school board in Louisville voted itself out of existence. State law provides that in this event responsibility for a formerly independent school district reverts to the county. Thus the Louisville board's action had the effect of creating a single school district from the two separate districts. It is important to note that had Kentucky law not provided for such a school district merger, or had more than two major school districts been involved, the courts would have faced considerable difficulty ordering a merger.

The 1975 desegregation plan for Louisville contained two unqiue provisions that contributed greatly to its success. The first exempted children from busing if they lived in neighborhoods where they were in the racial minority. This encouraged Black families to move into the virtually all-White county suburbs. Adding further impetus was a merger of administrative authorities under the Section 8 Housing Assistance program in Louisville and Jefferson County. This enabled Louisville applicants to seek housing outside the city for the first time, an option more than half chose./51\ A second provision exempted from busing entire neighborhoods that had achieved racial balance. This important corollary to the first provision was intended to help families

moving into areas where they were in the minority be more welcome in their new communities.

The plan implemented in 1975 was initially met with boycotting and violence. Yet, despite apparently widespread resistance, evidence suggests that Kentucky residents were actually not completely opposed to desegregation. The U.S. Commission on Civil Rights reported in 1976 that the population in general was much less opposed to desegregation than local leaders, who by ignoring or openly opposing the court order had created more divisiveness than might otherwise have occurred.

Lexington, Kentucky's second largest city, had a Black population similar in percentage to that of Louisville, yet it voluntarily moved school district attendance lines in 1968 to improve racial balance in its schools. During the 1970s, the city implemented teacher reassignment and busing, again voluntarily, because metropolitan growth and housing patterns had threatened racial balance. It is possible that factors contributing to these voluntary adjustments were unique to Lexington; whatever the reasons, the adjustments were made without incident.

"White Flight". A study of enrollment trends in Jefferson County, conducted in 1979, found that a sharp decline in White public school enrollment occurred between 1974 and 1976, as the desegregation plan appeared imminent and was finally ordered./43\ Although White enrollment continued to decline through 1978, it did so at a decreasing rate. Though nonpublic school enrollment had been declining steadily through 1974, a surge of enrollment totalling 4,697 students was recorded between 1974 and 1975. However, perhaps due in part to an announcement in early 1975 by Archbishop Thomas J. McDonough that Catholic schools would not become havens for those trying to escape desegregation, parochial school enrollment stabilized. By 1981-82, enrollment in parochial schools (including fundamentalist Christian schools) had begun to decline and it is now declining at a faster rate than the decline in birth rates.

Success of the Plan. By the end of the 1975-76 school year, the plan was widely accepted in schools and communities and, as the second year of desegregation began, no significant resistance was reported. Revisions to the desegregation plan included a 1978 ruling by the U.S. Court of Appeals for the Sixth Circuit that first-graders could no longer be exempted from desegregation, an anomalous provision that had been included in the original plan./54\ The Sixth Circuit also ruled, in 1978, that a statute allowing parents to enroll their children in the public school nearest home conflicted with the Jefferson County desegregation plan and could not be applied to it./55\

Steady progress was made from 1976 through the end of the decade, and by 1980 the Jefferson County public school system was considered to be among the most desegregated school systems in the United States./56\ Giving lie to the notion that desegregation would cause a decline in achievement, test scores showed Blacks closing the gap educationally, and doing so exceptionally fast in the elementary grades. As the test scores of Black students rose dramatically, white students began to record gains in achievement scores as well. According to the Kentucky Commission on Human Rights, in 1976 "not one of the 12 grades scored above the 50th percentile in reading. Only two grades had reached that level in mathematics. By 1981, all grades except 11 and 12 were above the 50th percentile in reading and eight grades were above in math."/57\

Five years of effort to integrate neighborhoods and schools appeared to be paying off. Although 8.4% of schools remained out of compliance with the desegregation guidelines (calling for between 16% and 40% Black students in all elementary schools and 16% to 35% Black students in all secondary schools), a marked increase in school integration occurred between 1975 and 1980./58\ Even more impressive was the advance of housing integration, which undeniably contributed to success in the schools. Black families accounted for 30% of the growth in Jefferson County outside the city of Louisville in the 1970s whereas they had accounted for only one percent of the county's growth in the 1960s.

Conclusion. Unfortunately, the story does not end on a positive note. Statistics from the Kentucky Commission on Human Rights show that a trend toward resegregation beginning in 1980 has brought more than 19% of schools out of compliance with the desegregation guidelines in the 1982-83 school year. The commission's 1983 report found that "the Jefferson County public school system permitted an almost across-the-board return toward the segregated school system which existed before 1975."/59\ Problems of compliance with the Singleton standard (a standard for eliminating racially identifiable teaching staffs) were never fully addressed, and progress made in this area has been completely reversed. "Hardship transfers" for exemption from busing are on the rise, and schools out of compliance with the guidelines are the same schools that were racially unbalanced before 1975.

This backsliding reflects similar retrenchment in communities all over the country. The varied causes probably include economic recession, the current de-emphasis on busing by the courts, and the Reagan Administration's apparent lack of interest in desegregation. At this writing, Jefferson County school officials are discussing the development of a new desegregation plan to address this recent resegregation.

Although the State Equal Educational Opportunity (Title IV) office is not directly involved in this process, it does offer technical

assistance and it has a good relationship with Jefferson County officials. The EEO office would like to focus attention on equitable discipline and the development of closer school staff relationships with students. The Kentucky Commission on Human Rights maintains an active interest in these proceedings and stresses the importance of maintaining the Black student enrollment ratio at 16% to 35% in all schools, the exemption from busing for racially balanced neighborhoods, and the desegregation of teaching staffs.

Massachusetts/60\

Introduction. Massachusetts, well known for its liberal politics, has long been a leader in school desegregation. But Boston, where the minority population exceeds 70% of the total, is one of the large metropolitan areas where both federal and state laws are difficult to enforce. Desegregation in the Boston schools was taken out of state hands and placed in the hands of a special master appointed by the federal courts. After many years of court supervision, the responsibility is once again with the state.

State policy and the role of the state education agency in school desegregation have passed through a number of fairly distinct periods since passage of the state's Racial Imbalance Law in 1965, and some progress is evident.

Evolution of the State Role. The Massachusetts Racial Imbalance Law/61\, seemed to provide a model for state action to desegregate public schools. The legislature, at the encouragement of a "blue ribbon" advisory group and the state Board of Education, made it official state policy to encourage racial balance and to prevent racial imbalance (defined as occurring when a school was more than 50% "nonwhite"). The Board was given the authority to require racial balance plans from any system operating one or more imbalanced schools and to require implementation of plans. These requirements were backed up by the Board's power to withhold state funding for noncompliance. Over the next several years incentives for racial balance were added, including 100% state reimbursement for any transportation, 65% reimbursement for construction, and (through the "METCO" program) support for the costs of educating minority students from "imbalanced" urban schools in suburban schools.

By early 1971 the METCO program was operating with an appropriation of $2 million and serving some 1500 students. About 1000 students were being transported to reduce racial imbalance in Boston, Cambridge, New Bedford and Springfield, largely at the initiative of parents and a few enthusiasts within the school systems. More than $200 million in state funds had been committed to the construction of new school facilities in these four communities, but actual construction had lagged and the effect of completed schools on desegregation was rather disappointing.

Several magnet schools -- especially Trotter in Boston and Greene in New Bedford -- enjoyed solid support from parents but little enthusiasm from school officials.

The Period of Enforcement. Several developments converged to force a faster pace, starting in 1971. Early reactions to preliminary conclusions drawn in a study the Board commissioned by the Harvard Center for Law and Education created a sense of urgency. Enforcement of racial-balance requirements was made the responsibility of a new unit in the Department rather than of the the Deputy Commissioner. Significantly, the unit was supported not only with federal Title IV technical assistance funds but also with a small state appropriation. This state-level support enabled it to function more aggressively than comparable units in other states. Locally, the failure of New Bedford and Springfield to proceed with commitments to build schools -- the cornerstone of racial balance plans in those cities -- and the completion of two large elementary schools in racial fringe areas in Boston brought matters to a head. Local intransigence and the appointment of Commissioner Neil V. Sullivan who had a reputation for his commitment to desegregation, made conflict inevitable. Time had run out for negotiation and planning.

By the end of 1971, the Board had cut off state funding to Boston, New Bedford, and Springfield and had determined that Boston was violating not only the state racial imbalance law but also the United States Constitution. Several years of litigation and intense political pressure followed. New Bedford took satisfactory interim measures and moved ahead with its construction program, but the litigation with Boston and Springfield went forward. Thus, in 1973, the Massachusetts Supreme Judicial Court ordered the state board to make specific recommendations for a comprehensive racial balance plan in each community. The Board and the Court ordered these "forced busing" plans. Developed for Boston by Board staff and consultants and for Springfield by its School Department, to be implemented in September, 1974.

Political pressure mounted for repeal of the racial-imbalance law. Republican Governor Francis Sargent vetoed repeal legislation several years in succession. But pressure became so strong in the election year 1974 that the Governor's staff worked out a substitute law, known as "Chapter 636"/62\. It removed the Board's authority to require redistricting and substituted substantial financial incentives that included more funding for magnet schools and programs through METCO (under $2 million the first year, subsequently increased to $3.5 million), and a program to strengthen desegregated schools ($7.3 million). The reimbursement for construction to enchance desegregation was increased from 65% to 75% of costs. The governor's amendment passed and was signed weeks before implementation of the Boston and Springfield plans.

Ironically, the gutting of the racial imbalance law had no effect at all on the desegregation of these two communities. Federal District Judge W. Arthur Garrity found Boston guilty of extensive fourteenth amendment violations based in part on evidence developed by state staff and with legal support from lawyers at the Harvard Center for Law and Education who applied research they had previously conducted for the Board. Judge Garrity ordered the implementation the "state plan" on schedule./63\ The Massachusetts Supreme Judicial Court found that it would be unconstitutional for Springfield to fail to implement the plan that had been developed by its staff and ordered by the Board, despite the repeal of the Board's authority to order such a plan./64\ And so the plans were implemented in 1974.

The Period of Consolidation. For the next four years, state desegregation efforts shifted from enforcement and planning to administering a large program of state funding. In Springfield the basic instructional program of each desegregated school was strengthened, which brought measurable improvement in student skills and began to close the gap between minority and White student test scores. In Boston the funds were used to involve universities, colleges, and cultural institutions in the schools and generally to supplement the curriculum. Eighteen magnet schools were funded in Boston and seven in Springfield; an innovative magnet program for talented and gifted students in New Bedford aggressively sought out minority students and students who spoke limited English. In 1976 New Bedford opened its new schools and eliminated racial imbalance through redistricting.

Implementing the Boston Plan was a priority in this period of consolidation, but serious problems arose that attracted national attention. The success of desegregation in Springfield and New Bedford, where local officials proceeded without direct court involvement and with unobtrusive monitoring by the state, contrasted sharply with the problems in Boston, a lesson not lost on state desegregation officials.

Emergence of the Current Role. Enforcement and implementation, a fourth stage of desegregation, began in 1978.

The Cambridge School Committee had made commitments a decade earlier to reduce racial imbalance through various measures; in the confusion and high drama over Boston and Springfield, the failure to carry out the measures went unnoticed by the state. The rather perfunctory annual reports to the state Board of Education on imbalanced schools always showed one or two schools with enrollments slightly more than half "non-White."

Almost equally unnoticed had been the effect of a 1976 decision by the state desegregation director to require that annual statistics on race be supplied in the five categories used by the federal Office for Civil Rights, rather than simply by "White/Non-White." He acted out of a concern about the state's ability to locate its

growing Hispanic population and protect their access to programs, rather than a concern about desegregation of Hispanics.

A third development was an anomaly in Springfield's racial-balance plan: while White and non-White students were desegregated in most of the city, the section with heavy Hispanic population had been left out of the plan, since those students were counted as White by Springfield. Springfield reasoned, that it had no obligation under state law to assure that Hispanics attended racially balanced schools. The Massachusetts Supreme Judicial Court supported the state Board's position that the Board had the right to require correction of what might be a violation of the Constitution; Springfield had a "continuing obligation" to prevent the isolation of these students./65\

State action in this fourth stage addressed these three developments. The unspoken assumption was that the cost -- however measured -- of enforcement on the Boston model was too high for everyone affected.

What happened next is of critical importance; activities in Cambridge created a model that a number of other Massachusetts cities have since followed and that other states with a commitment to desegregation have studied with great interest./66\

(1) State desegregation funds paid for a small desegregation planning office in Cambridge. For the first year, no real planning was done; the director served the superintendent of schools as a general assistant. Nevertheless, this was a productive year, since state staff were able to require the local office to produce considerable information on the Cambridge schools as a background to planning. In addition, the clock was running. Each passing month of inaction became potential evidence of local bad faith.

(2) State staff analyzed the information provided by the Cambridge desegregation office for evidence of past or continuing official action that contributed to de jure racial separation. This was a radical departure from reliance on making a de facto case based on enrollment data.

(3) The superintendent was quietly informed of the results of this analysis: it appeared that Cambridge was contributing to the isolation of minority students much as Boston had done. Official complicity in segregation was evident in decisions about the location of new schools and district lines and in the continuation of open enrollment that caused White students to leave and minority students to enter schools that were already heavily minority. But the state agency stressed that it was no longer an adversary of the school system but rather potentially a co-defendant, since state funds had supported school construction and some of the programs to encourage voluntary transfers.

Clearly, the state and the school system had a common interest in finding a constitutionally satisfactory solution, and quickly.

(4) The superintendent and school committee considered their options -- and obtained legal advice. State desegregation funds were provided to employ special counsel with expertise in desegregation cases. The advice and the decision, as expected, were to seek solutions rather than to risk court intervention and perhaps the necessity of implementing a plan developed, as in Boston, by state staff and outside experts. The state continued to apply discreet pressure, carefully avoiding official "findings of guilt" or other actions that might have stiffened resistance.

(5) Once the Cambridge School Committee decided to find solutions outside the courts, the state funded broad-scale community consultation. Many options were proposed and rejected; others were refined into the elements of a plan. The plan, in its several stages was explained in detail at each of its several stages; open public discussion and trouble-shooting continued through the fourth year of implementation.

(6) The first stage of the plan to be implemented was the correction of actions that could create new segregation, especially unrestricted open enrollment. Clear and strictly enforced transfer requirements, centrally administered, were put in place. On state advice, students who had already transferred inappropriately were allowed to remain in their new schools.

(7) The next stage, the following year, was implementation of contiguous redistricting. School attendance zones were adjusted to improve the racial mix of each school, though without the "very large or gerrymandered" districts forbidden under state racial balance guidelines. The demography of Cambridge, whose more than 40% minority students are dispersed in schools around the city, meant that moderate redistricting combined with preventing "internal white flight" through strict transfer controls desegregated most schools.

(8) The third year, Cambridge paired two schools (1-4 and 5-8) that could not be desegregated by redistricting and abolished attendance zones for all schools. New admissions would in the future be based upon parents' preferences for up to three schools, subject to racial-balance criteria, capacity, and other clearly stated considerations. By creating this system of controlled admissions -- and assuring its open and fair administration -- the school committee gave itself a powerful tool for long-term stability and flexibility. District lines will never again be changed, for there are no district lines. Choices by thousands of parents and administrative decisions will shape the enrollment of each school. Naturally, this system makes it important to assure that every school in Cambridge is attractive to parents, since frustration over undesirable assignments would be politically unacceptable. In addition, staff of each school have a bigger

stake in the satisfaction of parents, especially in a period when school closings are likely.

(9) An additional stage - surely not the last - of Cambridge desegregation was reached in September 1983 with the creation of a magnet school stressing the use of computers. Enrollment goals, were set with unusual care, considering race, sex, and income; admissions are determined by public lottery from the applications received, subject to the goals. A condition for the receipt of state desegregation funds was to avoid creating an elite school and, in fact, a disproportionate number of applications have been from lower-income families.

The elements of desegregation in Cambridge are not unique, but the process that led to desegregation taught Massachusetts desegregation officials valuable lessons. The "problem-solving" mode produced solutions by local and state cooperation rather than by conflict. Since negotiation had been tried in the early years (1965-70) in Boston as well, with scant results, the truly original element in the Cambridge situation may have been the state's willingness to reveal informally its potential liability under the fourteenth amendment.

By lifting constitutional concerns and methods of analysis out of the context of litigation and making them the centerpiece of informal negotiations, Massachusetts found a way to combine the flexibility of negotiations, with the breadth and power of the constitution. Looming over earlier negotiations had been the threat that the state would itself develop a plan to achieve racial balance. But since the political cost to the state of developing and requiring such a plan was almost as high as it would have been to the city, the threat lacked credibility. By bringing constitutional concerns to the fore, the state was able to insist that the real obligation was external to and binding upon the state itself, thereby creating mutual interest in a solution. In addition, the constitutional context made it possible to assure an outcome that provided not only a plan to achieve certain racial proportions but also a response to all outstanding equity isues (e.g., bilingual education, and minority staffing).

Conclusion. From the point of view of the state education agency, the Cambridge process has been a decided success. Although the willingness of the state to go to enforcement had to be communicated clearly and repeatedly, official action that would have made the state and the city adversaries did not prove necessary. This conserved the scarce capital of political and public support for state education agency activities. The Board has not had to go to court, withhold funds, or even make a finding of noncompliance to achieve the extensive desegregation that has occurred since 1978. Occasional hints -- a letter from the Commissioner expressing his concern, a vote of the Board asking the Commissioner to make a report to a subsequent meeting, a

letter from the General Counsel responding to a local request -- have done the job.

About a year after this process began in Cambridge, the opportunity arose to follow a similar course in Holyoke, then in Worcester, Lawrence, Lowell, and other Massachusetts cities. Each of these communities, needless to say, followed its own course and developed a plan very different from the Cambridge plan. Some plans have relied primarily on magnet schools, while others have required more extreme measures. But all met state standards for equity and effectiveness.

In these communities -- and especially in Holyoke, a small industrial city with a large Hispanic population -- additional factors have come to seem important to a successful process. One is the involvement of minority parents not only, as in Cambridge, in general community participation (more successful in Cambridge than almost anywhere else because of the nature of that community) but also as a potential plaintiff group, with good legal advice and the capacity to enter directly into negotiations on a plan. This allows the state to mediate and interpret the conflicting interests of minority parents and school systems, rather than to serve as a surrogate for the interests of parents. The participation of minority parents who can articulate goals clearly and realistically produces a better plan at a lower cost to the state's on-going relationships with the school system. The second factor is the importance of agreeing at the start on expectations regarding the nature and impact of the plan. Such agreement, generally expressed in a list of principles used to assess every proposed option, provides a common point of reference for negotiations. These principles set the rules by which all parties agree to play, and they provide assurance that special concerns will receive serious attention.

Gradually, the new state approach has become easier to implement. Each superintendent who has gone through the new process has emerged a stronger leader and ready to boast about how his schools have improved while desegregating. And while enforcement efforts in Boston and Springfield carried high political (as well as budgetary) costs for the state education agency, there is now a renewed support in the legislature for state desegregation efforts which are perceived as benefiting school systems. In the middle of the austerity imposed by "Proposition 2 1/2",/67\ a limit on spending passed as part of a taxpayers' revolt, the reimbursement for desegregation construction was nonetheless raised to 90% in 1982 and the magnet school appropriation increased by $500,000. In 1983, the racial-imbalance law was broadened to include additional communities and the appropriation increased by $1.3 million. An increase in funds for the urban/suburban METCO desegregation program was also approved.

At the start of the 1983-84 school year, 12 Massachusetts cities were implementing desegregation plans, as were some 40 suburban communities involved in METCO. The state education agency has completed its first report to Federal District Judge W. Arthur Garrity as court-appointed monitor of Boston desegregation. Emphasis in that report, and in discussions with other desegregating school systems, is now on thinking through the techniques and the implications of recruiting students for desegregated schools.

Massachusetts stumbled upon strategies for more effective state leadership in desegregation, through the accident of growing Hispanic isolation that was not covered by the state "de facto" law and could only be addressed by using "de jure" evidence as the basis of negotiated remedies. Also stumbled upon was a strategy to strengthen public support for education through extensive and varied experimentation with magnet schools. More than 50 magnet schools are already in operation and, perhaps more imporantly, 10 very different cities are developing them with state funding support and coordination. Massachusetts therefore represents a great laboratory of parent choice and diversity in public education. Commissioner John Lawson, committed to both desegregation and parent choice, is supporting the efforts to make urban schools effective -- without elitism.

It appears, then, that the next stage of desegregation in Massachusetts will be an increasing correlation of racial integration, educational improvement, and diversity.

Washington/68\

Introduction. Washington has long pursued progressive politics with few of the problems of urban blight, industrialization and large concentrations of population. For a long time it had few racial minorities other than native Americans -- and very few Blacks. Times have changed. The state's large cities have attracted Blacks. New immigrants from Asia are making Washington their home. The apple growers and other fruit farmers of Eastern Washington have jobs available to migrants, many of whom are racial minorities, thus offering some economic incentives to minorities to locate in the state.

This is not to say that issues of race and equality of educational opportunity are new issues in Washington State. The rights and treatment of Indian people from the many tribes in the Oregon Territory and the appropriate education of their children have been of concern since before statehood in 1889. The internment of Japanese American citizens during World War II resulted in their children being educated in hastily constructed temporary schools isolated from other children. These incidents served to raised concern for issues of race, the rights of individual citizens and

equality of educational opportunity for children. The issues were brought more clearly into focus, however, by the increasing isolation of larger and larger numbers of Black children in the state's urban school districts.

As the racial integration of public schools came to encompass more than remedying statutory de jure segregation, states outside the South have sought solutions in a variety of ways. The search for remedies to segregated conditions finds its origins in the 1954 Supreme Court decision in Brown v. Board of Education./69\ At first, Brown caused little stir in Washington State. Not until the fall of 1970, when the Seattle School Board announced its intention to mandate the reassignment of students in order to desegregate the district's middle schools, was the state forced to face the reality of increasing racial isolation in the public schools.

Evolution of the State Role. Concern about increasing segregation in the public schools and the need for effective school district policies became evident as early as 1965. In September, the Seattle Urban League submitted to the Seattle School Board a comprehensive school desegregation plan designed to desegregate the races in Seattle's public schools and to eliminate the segregation of poor children from more affluent children in neighborhood schools. That plan was unanimously rejected by the school board.

The Seattle School Board first adopted policies to desegregate its schools in the spring of 1968. Until that time, the Board had maintained that if there was segregation in the city's schools, it was caused by housing patterns; the school system had no responsibility for rectifying the situation. The Board's policy shift, amid mounting pressure from civil rights groups, led the Seattle School District to make changes from 1968 to 1977 that included the implementation of programs of compensatory education, a voluntary student transfer program, mandatory reassignment of Black children from over-crowded schools to desegregated middle schools, and a magnet plan. These changes culminated in the school district's adoption of a comprehensive school desegregation plan in November, 1977. This plan reassigned students through grade reconfigurations and complementary feeder-pattern changes for secondary schools. The reassignment portion of the plan was enhanced by an educational options program.

The plan, which become known nationally as the "Seattle Plan for School Desegregation," was designed to eliminate racial isolation in the Seattle School District by 1981. During each stage set by the plan, the Seattle School District attempted to deal with segregated schools as an educational as well as a racial problem.

Concern for effective state policies and administrative procedures to eliminate racial isolation in the urban school districts in Washington State first arose in October, 1966. In a joint meeting

with the State Board of Eduction (SBE), the State Board Against Discrimination (SBAD) requested that the SBE take an active role in developing solutions to the problems of de facto segregation in the public schools.

At its December, 1966 meeting the SBE seemed to assign Washington's Department of Public Instruction responsibility for monitoring and facilitating the elimination of segregation in the public school system. SBE's recommendations were sent to all school district superintendents by the State Superintendent for Public Instruction, who noted that the State Board hoped superintendents and school boards would give careful consideration to the statement and take appropriate steps. Recommendations included a vague statement that school districts should take steps toward solutions to segregation, a requirement that all school districts conduct an annual count of pupils by ethnic group, encouragement to districts to re-examine personnel practices, a recommendation to consider multicultural contributions to instruction, and a recommendation that pre-service and in-service teacher education be used to help improve intergroup relations.

Since that time, a number of laws and policies have been created to fulfill requirements of the state constitution. Article IX, Section 1 states that, "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste or sex."/70\ Washington state statutes contain two general provisions for anti-discrimination in education because of race: "The right to be free from discrimination because of race, creed, color, national origin, or the presence of any sensory, mental or physical handicap is recognized and declared to be a civil right. This right shall include, but not be limited to . . . the right to full enjoyment of any . . . place of public resort, accommodation, assemblage or amusement,"/71\ and "Every person who denies to any other person because of race, creed, color, or full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, shall be guilty of a misdemeanor./72\ A place of accommodation is defined to include "any public library or educational institution . . . or children's camps."/73\

Other statutory provisions define an unfair practice as one that directly or indirectly results in discrimination; give individuals the right to sue in court and to file complaints with the Washington State Human Rights Commission, and establish a right to appeal a commission decision to court. The statutes place enforcement responsibility with the Washington State Human Rights Commission and local prosecuting attorneys.

Also, the State Board of Education and the State Human Rights Commission in 1973 approved a joint policy statement as a foundation for enforcement of the provisions of Article IX of the

Constitution: "the Washington State Board of Education and the Washington State Human Rights Commission jointly declare that racially segregated schools are a barrier to quality education and to equality of opportunity in education." The statement declares further that "School boards have the responsibility, as well as the duty under the Federal Constitution and laws of the State of Washington, to assign children to buildings in ways which result in the maximum desegregation possible by whatever means that are necessary."/74\

Perhaps this favorable policy environment has helped Washington avoid bitter, divisive polarization. Also helpful has been the fact that desegregation efforts were aided by the Seattle Urban League and the Seattle Civic Unity Committee, groups long involved in inter-racial problems. Their programs provided opportunities for the involvement of influential Seattle residents. These groups have contributed to the process used to design Seattle's desegregation plan and the criteria used to determine which plan to approve. The Seattle Plan was based on careful analysis of the positive and negative features of the desegregation plans of other cities, a review of effects on children, and followed 13 criteria endorsed by civil rights groups, school parent groups, religious organizations, and business and civic groups.

School desegregation was not implemented without challenge, however. Members of the Seattle School District Board of Directors were subjected to a recall election following the desegregation of middle schools in the early 1970s, and there was an unsuccessful court challenge to stop desegregation. The recall effort failed, but two of the four board members did not seek reelection the following fall. Desegregation in Seattle was not halted, but these events contributed to its delay. It appears that succeeding school board members were less aggressive in their efforts to desegregate the schools. Not until federal court action loomed as a real possibility in 1977 was there concerted effort to eliminate racial segregation in the Seattle School District.

In the interim, from 1971 to 1977, the Seattle School District became increasingly more segregated. Consistent with the state's monitoring and facilitating obligations, the Equality of Educational Opportunity officer frequently encouraged the school district to take steps to eliminate segregation, but no action was taken. Despite an aggressive nondiscrimination provision in its constitution, a strong State Board policy against segregation, and strong antidiscrimination statutes, the state imposed no sanctions on the Seattle School District for its inaction.

In the late 1970s, three school districts with significant numbers of Black students -- Seattle, Tacoma and Pasco -- implemented local initiatives to desegregate their schools. Spurring action was local support, encouragement from the State EEO Officer, and, in the case of Seattle, the threat of federal court intervention

by the American Civil Liberties Union (ACLU) and the National Association for the Advancement of Colored People (NAACP). Seattle's plan received the most attention because it included mandatory student reassignment and because its overall scope was broad. Despite the plan's potentially controversial terms, it was endorsed by a 50-member citizen's committee that included representatives of civil rights groups, business groups, and religious groups.

In each session of the legislature that has followed adoption of the plan, some form of legislation has been introduced to thwart the Seattle School Board decision. Legislative tactics have included restricting assignment patterns of students, denying Seattle money for transporting students who had been mandatorily reassigned for desegregation purposes, or reducing financial support in other areas. Despite these challenges, pro-desegregation school board members are consistently re-elected to the Seattle School Board, enabling the district to maintain its aggressive stand on desegregation.

Having failed to find relief from the legislature or to elect anti-desegregation candidates to the School Board, a group of citizens opposed to the mandatory nature of the desegregation plan turned to the state's initiative process. With assistance from the State Attorney General's Office, the group developed a state-wide referendum designed to stop the school desegregation plan in Seattle. The initiative was openly advocated as only restricting district freedom to assign children away from their neighborhood schools for purposes of desegregation; the initiative allowed all assignments of pupils for other reasons. Reassignments for racial balance were allowed only when school district violations of the civil rights of students by de facto or de jure segregation could be proved in court. The initiative was approved by nearly 66% of the voters who cast ballots in the election.

Following its passage, the State Attorney General ruled that the initiative was constitutional under Washington law. To prevent the initiative from becoming law, the Seattle, Tacoma and Pasco School Districts sued the State of Washington in federal court on the grounds that the initiative was an unconstitutional racial classification device. The school districts were joined in the suit by the NAACP, ACLU, The Seattle Urban League, Church Council of Greater Seattle, American Friends Service Committee, and the U.S. Department of Justice. The state was represented by the State Attorney General and was joined by the citizen's group that had sponsored the initiative.

The state argued that the initiative was constitutional because it was not a racial classification device and was not passed with racial classification intent. In the alternative, the State argued that even if the court found the initiative to be a racial classification, it should still be allowed to become law because

the state had a compelling i interest in maintaining neighborhood schools. The argument placed this interest above the civil rights of pupils adversely affected by implementation of the initiative.

The federal District Court found in favor of the school districts. After an unsuccessful appeal to the Ninth Circuit Court of Appeals,/75\ the state appealed to the U.S. Supreme Court. In the interim, Ronald Reagan was elected President, resulting in a shift in federal policy on school desegregation. Accordingly, the U.S. Department of Justice reversed its position and joined the appeal on the side of the state. In a five-to-four decision, the U.S. Supreme Court sided with the lower courts and declared the initiative unconstitutional./76\

Conclusion. The role of Washington state officials in fulfilling the provisions of policy set by the state constitution, state statutes, State Board of Education and State Human Rights Commission can best be described as confused, inconsistent, and contributing to instability in local decision-making. This is the case in spite of the fact that for more than a decade before the initiatve passed, state law, state board policy and EEO administrative action had encouraged school districts to eliminate racial isolation of students by "any means necessary."

Although the state encouraged school districts, it did not, however, actively pursue desegregation. The State Attorney General's Office rather than the Office of the State Superintendent or the State Board of Education effectively determined state educational policy on desegregation. That policy was that the state's interest in the neighborhood school concept was compelling enough to abridge the civil rights of students who might be affected by the policy. Thus, school districts that chose to protect the rights of their students found support from civil rights groups and other community groups, but not the state whose policies they were pursuing.

The school districts that have implemented school desegregation plans in Washington, particularly the Seattle School District, have acted because board members believed not only that they had a constitutional obligation to do so, but also that they could avoid the intervention of federal courts in the operation of the school district. The Seattle School District developed a plan that capitalized on the efforts of other cities, the literature on positive student outcomes of desegregation elsewhere, and a broad coalition of business, civic, religious, and civil rights groups. The desegregation plan was designed to be just and equitable to all children. Despite these efforts, however, litigation was not avoided.

Avoiding judicial involvement may not be possible. It is clear, however, that the role of the school district in the litigation process can be a positive one. Rather than seeking authority to violate the civil rights of children, the district can advocate protection of those rights.

Implementing its own plan without state or federal intervention allowed the Seattle district to decide itself whether, for example, to include kindergarten children, to implement the plan over four years, to phase students into secondary feeder-patterns and to determine its own student-transfer rules. But this autonomy also led to difficulties in maintaining the plan. Now that the plan has been in effect for six years and has survived three court challenges, it is threatened by incremental changes. Over the years, segregation within buildings has increased, option programs have expanded in schools not covered by the plan schools that drain students from schools in the plan, and relationships between groups in schools have become more tense. These factors would have been monitored if the plan had been ordered by a court or initiated by a regulatory agency. The State Department of Education has remained supportive but aloof. Civil rights groups have been hard-pressed to criticize the plan publicly, lest they undercut its legal defense and long-term survival.

In sum, while states may have ample laws and policies to provide a positive setting for eliminating racial isolation in schools, school districts still must build coalitions committed to school desegregation. Such coalitions are particularly necessary where plans are not the result of litigation.

CONCLUSIONS: STATE DESEGREGATION POLICY IN TRANSITION

In Kentucky, state law facilitated the consolidation of school districts in Jefferson County. The Kentucky Commission on Human Rights, while not adopting the same kind enforcement role it adopted in housing, nonetheless used data collection and reporting as tools to keep local officials focused on crucial issues. There is also some indication that the commission assisted local leaders who wished to take action.

Local initiative and favorable provisions in Washington state law led to the adoption of the Seattle plan. State agencies encouraged desegregation but their support was undermined by the legislature and citizens who resorted to the initiative process. While the anti-busing initiative was ultimately struck down by the courts, the Seattle board and the community still must contend with the political realities evidenced by overwhelming passage of the initiative.

California, Massachusetts and Illinois staked out pro-desegregation positions in the 1960s and, in their own ways, endeavored to pursue active state roles. In all three states, however, budgetary crises and political opposition to particular desegregation efforts undermined and ultimately limited state legal authority. Each of these states is presently trying to find the best ways of proceeding within altered political and legal environments.

In all cases, the desegregation policies of state agencies have been influenced -- whether positively or negatively -- by court decisions, legislative enactments and, in two states, voter referendums. Officials in all five states perceive that desegregation policies and techniques are in a period of transition.

The search for new strategies is still under way, but some general directions are already apprent. Developments of the sort described below seem likely.

States as Defendants in Desegregation Cases

In the opening chapter of this report, Lines notes the growing tendency to involve states as defendants in desegregation litigation to secure their help in developing and financing desegregation plans. Michael Alves/77\ argues that this trend creates a powerful, new incentive for states to play a more active role in school desegregation, since non-involvement in the developmnt of a plan the state must help finance does not make sense. Dr. Bill Hawley notes that states brought into cases as defendants are put into an adversarial relationship with school districts since blame must be allocated among the parties. Once a desegregation plan is ordered, the state then has difficulty making the trasition back to non-adversarial helper./78\

With the abolition of the ESAA program, the search for funds to implement desegregation plans will almost undoubtedly center on the SEA. In the future, then, the question for SEAs is most likely not whether they will be involved in the desegregation process, but when. Intervening sooner rather than later will help states influence the form and content of desegregation plans and competing interests.

The Meaning of "Effective" State Involvement

Assuming that the most viable state role in desegregation is an active one, there remains the major problem of deciding just what that role should be. Summarizing the research and his own conversations with SEA staff, Alves concludes that conventional wisdom defines a role that includes:

- o The enactment of state laws that give SEAs power to enforce desegregation mandates
- o The appropriation of desegregation assistance funds
- o The election or appointment of top-level state education officials willing to enforce desegregation mandates vigorously
- o The presence of SEA staff who have desegregation expertise and whose work is supported by state (rather than federal) funds.

The pragmatic response to this definition has always been that these powers and resources will not be granted except in those few states that already possess them. Furthermore, the problems encountered by states like Massachusetts and Illinois demonstrate that even with the suggested powers and resources, state action can still be constrained.

New criteria are needed to account for and respond to the political realities within which state policies must operate. Alves suggests that such criteria should include the SEA's ability to:

- o Overcome political constraints to action on desegregation.
- o Accommodate the legitimate interests of all parties involved in a particular desegregation controversy.
- o Implement a strategy without reliance on formal enforcement power.

Alves recommends an approach that might be called "preventive law with persuasion"./79\ Under this model, the SEA would gather and evaluate information on LEA practices in order to identify situations where de jure segregation could be found if a case were brought to trial. It would then offer to negotiate a plan acceptable to all parties involved in order to head off the threat of litigation and the loss of control that a court-ordered plan might bring.

The Massachusetts strategy may well be inappropriate or unworkable in other states, particularly ones without that state's liberal political tradition and tolerance of state government activism on civil rights. Nonetheless, the criteria Alves propose seem a useful starting point. Overcoming political constraints and accomodating diverse interests will clearly be most difficult. Public opinion polls show that most people support desegregation and equal opportunity in principle. Problems arise when discussion turns to the means of achieving these goals and when implementation intensifies competition for the same -- often fewer -- resources. Disputes over means and resources will be reflected in political constraints and competition among legitimate interests. New state roles should, therefore, be based on understanding the politics and interests involved in particular desegregation disputes well enough to maximize accomodation.

The Link with Educational Quality Reforms

Officials in the states profiled believe that desegregation and efforts to improve the quality of the education system must be more directly linked. The prominence of the educational quality movement has exacerbated the longstanding problem of education officials who view "desegregation and other equal educational opportunity matters as obstacles to their main set of activities."/80\ This perception persists despite the position of the National Commission on Excellence in Education that: "The twin goals of equity and high quality schooling have profound and practical meaning for our economy and society, and we cannot permit one to yield to the other either in principle and practice."/81\

Ways of pursuing these twin goals have yet to be developed fully. Nonetheless, state officials searching for new desegregation strategies are virtually unanimous in their belief that marrying the two goals in practice is of the utmost importance. Strategies for reaching both goals, particularly successful state initiatives, should be monitored and encouraged. Recent modifications to the Fort Worth desegregation plan/82\ illustrate that such strategies can be devised if planning begins with a commitment to both goals.

The search for model state strategies to further desegregation is burdened with baggage from the past, particularly with suspicion about how much states will be able to contribute. Civil rights advocates have understandably viewed negotiation and compromise as inconsistent with their efforts to establish the meaning of the fourteenth amendment and state constitutional rights of minority children./83\ Now, however, it can fairly be said that assuring those rights has taken its place alongside other issues fundamental to forward-looking educational policy, and that supporters of desegregation must participate in the give and take of policy-making. Not to recognize that state government can play a central role in the future of school desegregation is to ignore a potentially valuable resource.

FOOTNOTES

* Hal Winslow, an attorney, is principal of Winslow & Associates, a consulting firm in Denver. Judith Bray is a legal analyst in the law center at the Education Commission of the States. Charles Glenn is director of the equal education opportunity office in Massachusetts. Richard Andrews is a professor of education, and Chair, Policy Governance and Administration, at the College of Education at the University of Washington. Winslow provided overall content and editing. Andrews contributed the case study of Washington; Bray, of Kentucky; and Glenn, of Massachusetts. Patricia Lines and Charles Glenn contributed the case study of Illinois.

1. 567 F.Supp 272 (1983).

2. See, e.g., Bert Mogin, "State Role in School Desegregation," SRI International, Menlo Park, Ca., (July 1977, reprinted June 1978) and Ben Williams, "Effective State Strategies That Enhance Desegregation Learning," Education Commission of the States, Denver, Co. (June 1981).

3. Larson, M., Winslow, H., et al, "Finding the Common Denominator: The Capacity of State Agencies to Assist the HEW Office for Civil Rights," SRI International, Menlo Park, Ca. (September 1979).

4. Larson, Winslow, supra note 3, at 27-34.

5. Mogin, supra note 2; Michael Alves, "Toward Developing A More Effective State Role in School Desegregation," Jan. 1983.

6. Figures on the number of states with such laws vary depending on the definitions used by the researchers conducting the surveys.

7. Again, hard figures are difficult to come by because of differing definitions of what constitutes "enforcement action" and "funding for desegregation." The most commonly accepted list, which may now be out of date, includes six states as having initiated enforcement actions based on state law -- California, Illinois, Massachusetts, New Jersey, New York, Pennsylvania. Three states are reported as having established programs to fund desegregation plan implementation -- Massachusetts, New York, Wisconsin. This figure obviously does not include states under court order to contribute funds to particular districts, e.g., Michigan, in the Detroit case, Missouri in the St. Louis case.

8. Moore, M., et al, "The Interaction of Federal and Related State Education Programs," Volume I, Education Testing Service, Princeton, New Jersey, (1983), see particularly p. 76.

9. References to OCR are to the Office for Civil Rights located in the U.S. Department of Education. Prior to creation of the

Department of Education, civil rights enforcement activities in education were part of the duties of the Office for Civil Rights in the Department of Health, Education and Welfare (HEW).

10. The California profile was written by Hal Winslow, Winslow & Associates, Denver, Co., serving as a consultant to the Education Commission of the States.

11. State of California, Office of the Legislative Analyst.

12. Title V, California Administrative Code, former Section 2010.

13. California Education code hereafter (CEE), Section 33631.

14. 382 P.2d 878 (1963).

15. Id. at 882.

16. 479 P.2d 669 (1971).

17. CEC, former Sections 5002 and 5003.

18. Id.

19. Title V, California Administrative Code, former Sections 14020 and 14021.

20. 530 P.2d 605 (1975).

21. Testimony of Wilson Riles in U.S. Commission on Civil Rights, "Hearings on Desegregation in Los Angeles, Washington, D.C. (Dec. 1976), p. 279.

22. 551 P.2d 28 (1976).

23. Title V, California Administrative Code Sections 90-101.

24. 102 S. Ct. 3211 (1982).

25. 642 P.2d 460 (1982).

26. California Legislative Analyst's Analysis of SB 555 and predecessor legislation.

27. Floor statement by Senator Alan Robbins on SB 550 (undated) provided by Senator Robbins' office.

28. California Legislative Analyst, see note 26.

29. Telephone interview.

30. United States v. Board of Education, 567 F.Supp. 272 (1983).

31. Telephone interview.

32. Telephone interview.

33. The Illinois profile was written by Patricia Lines, Director of the ECS' Law and Education Center and Dr. Charles Glenn, who has served as consultant to the Illinois SEA on equal educational opportunity issues.

34. Hurd. Rev. Stat. 1874, ch. 122, par. 100 (now codified as Ill. Rev. Stat. ch. 122, pars 10-22.5).

35. Ill. Rev. Stat. ch. 122, sec. 10-21.3 through 10-22.5 (Supp. 1983).

36. Tometz v. Board of Education, 237 N.E.2d 498, 39 Ill. 2d 595 (1968).

37. See Ill. State Board of Education, Rules Establishing Requirements and Procedures for the Elimination and Prevention of Racial Segregation in Schools, February 1976, at 1-13.

38. Interview with Pat Wolford, by Michael Alves, Dec. 7, 1982.

39. Williams, Ben, supra note 2 at 49-55.

40. 66 Ill. Dec. 85, 90, 442 N.E.2d 511 (1982).

41. Ill. Const. art X, sec. 2(a).

42. Ill. Rev. Stat. ch. 122, sec. 22.5 (Supp. 1983).

43. Ill. Rev. Stat. ch. 122, sec. 22-19 (Supp. 1982).

44. Ill. Rev. Stat. ch. 122, sec. 2-3.25 (Supp. 1982).

45. The remainder of this case study represents the personal views of Dr. Charles L. Glenn, based on his first-hand experience as a consultant to the Illinois Board. Dr. Glenn has coordinated desegregation and equal opportunity efforts and funding in Massachusetts since August 1970. Since October 1975 Michael Alves has also had a major role in these activities, including advising the Illinois state eduction agency.

46. Such state agency responsibility is explicity contained in Title VI's companion laws -- Title IX (sex) and sec. 504 (handicap) -- which were passed eight and nine years, respectively, after Title VI.

47. Interview with Pat Wolford, Dec. 7, 1982.

48. The Kentucky profile was written by Judith Bray, a legal analyst with the Law and Education Center, Education Commission of the States.

49. Ky. Rev. Stat. Ann. secs. 344.010 through 344.230 (1983).

50. Newburg Area Council, Inc. v. Board of Education, C.A. Nos. 7045 and 7291, (W.D. Ky., July 30, 1975).

51. School and Housing Desegregation are Working Together in Louisville and Jefferson County: 1975-1983. Staff Report 83-5, p. 23, Kentucky Commission on Human Rights, June, 1983.

52. Fulfilling the Letter and Spirit of the Law: Desegregation of the Nation's Public Schools, A report of the U.S. Commission on Civil Rights, p. 65, August 1976.

53. Cunningham, George K. and William Husk, A Metropolitan Desegregation Plan -- Where the White Students Went, University of Louisville, paper presented at AERA Annual Meeting, April 12, 1979, San Francisco, California.

54. Haycraft v. Board of Education of Jefferson County, 585 F.2d 803 (6th Cir. 1978) (removing exemption of first graders from desegregation plan).

55. Newburg Area Council v. Board of Education of Jefferson County, 585 F.2d 827 (6th Cir. 1978).

56. Orfield, Gary, Toward a Strategy of Urban Integration: Lessons for School and Housing Policy from Twelve Cities, Report to the Ford Foundation, February 1981, pp. 16-18.

57. School and Housing Desegregation are Working Together in Louisville and Jefferson County 1975-83, Kentucky Commission on Human Rights, Staff Report 83-5, June 1983, at 9.

58. Jefferson County School Resegregation Increases: 1982-83, Staff Report 83-2, Kentucky Commission on Human Rights, March 1983, p. 2-5.

59. Id. at 1.

60. The Massachusetts profile was written by Dr. Charles Glenn, director of the equal education opportunity office in the Massachusetts Department of Education.

61. Racial Imbalance Law of 1965, Mass. Gen Laws Ann. ch. 641, sec. 1 (1965). See Footnote 62, infra for the current citation.

62. Racial Imbalance Law, Mass. Gen. Stat. Ann. ch. 71, sec. 37D (West 1982), as amended by St. 1969, c. 643; St. 1971, c. 958; St. 1974 c. 636, sec. 5.

63. Morgan v. Kerrigan, 401 F. Supp. 216 (Mass. 1975) (findings and orders of Judge Garrity in Boston desegregation case), stay denied, 523 F.2d 917 (1975).

64. School Comm. of Springfield v. Board of Educ., 365 Mass. 215, 311 N.E.2d 69 (1974).

65. Board of Education v. School Comm. of Springfield, 370 Mass. 37, 345 N.E.2d 345 (1976).

66. This account of developments surrounding the Cambridge desegregation plan are drawn from the personal experience of the author.

67. Proposition 2 1/2 set a ceiling on property taxes of 2.5% of market value.

68. The Washington state profile was written by Richard L. Andrews, Chair, Policy, Governance and Administration, College of Education, University of Washington. Dr. Andrews also serves as chair of the citizens committee that developed the Seattle desegregation plan.

69. 347 U.S. 483 (1954).

70. Washington Const., Article IX, sec. 1.

71. Wash. Rev. Code, Section 49.60.030(1)(b) (1941).

72. Wash. Rev. Code Section 9.91.010(2) (1981).

73. Wash. Rev. Code Section 49.60.040 (1981).

74. Washington State Board of Education and Washington State Human Rights Commission, "Joint Policy Statement" (Nov 1973).

75. Washington v. Seattle School Dist., 473 F. Supp. 966 (W.D.Wa. 1979), aff'd, 633 F.2d 1338 (1980), aff'd 102 S. Ct. 3187 (1982).

76. 102 S. Ct. 3187 (1982).

77. Alves, M., supra note 5.

78. Telephone interview with Dr. Bill Hawley, Dean of Education, Vanderbilt University, August 1983.

79. For a description of the evolution of this approach, see the Massachusetts profile contained in this paper.

80. Interview with Dr. Hawley, August 1983.

81. National Commission on Excellence in Education, "A Nation At Risk," April 1983, p. 13.

82. For a description of the development and contents of Fort Worth's plan, see the opinion of Judge Mahon approving the plan in Flax v. Potts, Civ. A. No. CA 4-4205-E (June 17, 1983) (N.D. Texas 1983).

83. Kirp, David, Just Schools, University of California Press, Berkeley, Calif., (1982), at 281-283.